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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,307	03/16/2001	Robert K. Smith	T8-464854US	5399

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Gowling Lafleur Henderson LLP
Suite 4900
Commerce Court West
Toronto, ON M5L 1J3
CANADA

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/809,307

Applicant(s)
Robert K. Smith

Examiner
YVONNE M. HORTON

Art Unit
3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 13, 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jul 31, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3635

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1,3,7,9 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,572,842 to STIEF et al. STIEF et al. discloses the use of a flooring panel including a top rigid member (2), a lower water impervious continuous sheet (7) having a plurality of knob projections (4) extending away from the upper sheet (2) and protecting the upper sheet (2) from water while inherently allowing free drainage of water about the projections (4), and at least one interlocking assembly (16). In reference to claim 3, the lower member (7) is plastic, column 2, line 17. Regarding claim 7, the upper member (2) is liquid fill and inherently is “adhesively” attached to the lower member (7). In reference to claims 9 and 10, the interlocking assembly (16) includes a tongue/key (17) and at least one groove (18).
3. Claim 11 stands rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,572,842 to STIEF et al. STIEF et al. discloses the use of a flooring panel including a top rigid member (2), a lower water impervious continuous sheet (7) having a plurality of knob projections (4) extending away from the upper sheet (2) and protecting the upper sheet (2) from water while inherently allowing free drainage of water about the projections (4), and at least one interlocking assembly (16) including a tongue (17) and a groove (18).

Art Unit: 3635

4. Claim 12 stands rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,572,842 to STIEF et al. STIEF et al. discloses the use of a flooring panel including a top rigid member (2), a lower water impervious continuous sheet (7) having a plurality of knob projections (4) extending away from the upper sheet (2) and protecting the upper sheet (2) from water while inherently allowing free drainage of water about the projections (4), and at least one interlocking assembly (16) including a tongue (17) and a groove (18).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 2,5,6 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,572,842 to STIEF et al. in view of WO 82/03099. STIEF et al. discloses the basic flooring system except for the top member being formed from waferboard material. WO 82/03099 teaches that it is known in the art to use a waferboard material (9) as the top member in a flooring system. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the top layer of STIEF et al. from a waferboard material, as taught by WO 82/03099. Regarding claim 5, the lower member (7) of STIEF et al. is plastic, column 2, line 17. In reference to claim 6, although STIEF et al. discloses the use of a plastics material, he does not specify what type of plastic material. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material

Art Unit: 3635

on the basis of its suitability for the use intended as an obvious matter of design choice.

Regarding claim 8, it would have been obvious to one having ordinary skill in the art to use an adhesive to attach the upper waferboard of WO 82/03099 to the lower member of STIEF et al.

7. Claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,572,842 to STIEF et al. STIEF et al. discloses the basic floor member except for specifically detailing if the lower member is polyethylene. STIEF et al. does; however, detail that his lower member is plastic. although STIEF et al. discloses the use of a plastics material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice.

Response to Arguments

8. Applicant's arguments filed 6/13/03 have been fully considered but they are not persuasive.

In regards to the applicant's argument that the sheet of STEIF et al. does not disclose the use of a "waterproof" sheet because of the Examiner's remarks under the 35 U.S. C. 112 rejections noted in the previous Office Action; the Examiner was merely indicating that there could be a difference between "moisture impervious" and "water impervious" due to the applicant's amendments. Further, STEIF et al. discloses the use of a polymer sheet. Moisture/water imperviousness is an inherent property for most polymers in general. The

Art Unit: 3635

specification details waterproof. A definition of "waterproof", attached hereto, details *made of or treated with rubber plastic or a sealing agent*. Since the independent claims do not indicate any specific material, clearly the polymer which is a plastic, as taught by STEIF et al., inherently process water impervious characteristics.

Conclusion

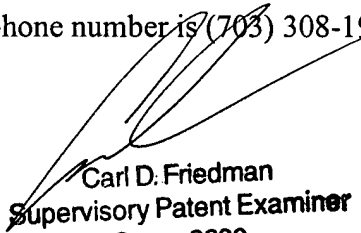
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

August 13, 2003


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

x. 50% carbon monoxide, mon dioxide and nitrogen,

ter Watergate, a building illegal activities that gave dal that involves officials acts of abuse of power, as air elective or appointive

instrument indicating the r, or stream.

blet. 2. A structure, as a bservations under water. : of glass. 5. A clepsydra, growing on swampy land.

heard in a water pipe fol- resulting pressure surges. by steam bubbles entering

the genus *Cicuta*, esp. C. e flower clusters. hy areas, as a coat or rail, in which water collects, place.

plant native to tropical purple flowers and often s.

ored, finely crushed ice.

animals find water. 2. A mineral springs : SPA. 3. A re served.

spout and a perforated

ry. -et-ed, -et-ing, -ets. To

er circulated by a pump, n water-cooled internal-

safs. A North American white or purplish flower

king water : DRY. 2. Not

ice of a body of water. of a ship.

genus *Nymphaea*, with s, esp. *N. odorata* and vers. 2. A plant related to

hull of a ship to which es marked on the hull of leph to which the ship

-gged, -log-ging, -log-a. og.] To soak or saturate

adj. 1. Naut. Heavy and the hold. 2. Soaked or

vs. [After Waterloo, Bel- d in 1815.] A disastrous

n of pipes for conveying

atman.

A mark indicating the showing the heights of ign impressed on paper inished paper is held to ing this design. -vt.

c (paper) with a water- a watermark.

n. 1. A native African, urge edible fruit. 2. The rind and sweet, watery

ling the quantity of w-

be hw which -f- r oi noise -o- too

water milfoil *n.* An aquatic plant of the genus *Myriophyllum*, with feathery, finely dissected leaves.

water mill *n.* A mill with water-driven machinery.

water moccasin *n.* A venomous snake, *Agkistrodon piscivorus* or *Ancistrodon piscivorus*, found in lowlands and swampy regions of the southern United States.

water oak *n.* Any of various oak trees that grow in wet land.

water of crystallization *n.* Water in chemical combination with a crystal and necessary for the maintenance of crystalline properties but capable of being removed by enough heat.

water of hydration *n.* Water chemically combined with a substance so that it can be removed, as by heating, without substantially changing the chemical composition of the substance.

water ouzel *n.* A small bird of the genus *Cinclus* that feeds along the bottom of swift-moving streams.

water parting *n.* WATERSHED 1.

water pepper *n.* A marsh plant, *Polygonum hydropiper* or *Persicaria hydropiper*, with reddish stems, clusters of small, greenish flowers, and acrid-tasting leaves.

water pipe *n.* 1. A water conduit. 2. A hookah.

water pistol *n.* A squirt gun.

water plantain *n.* An aquatic plant of the genus *Alisma*, with branching clusters of small pinkish or white flowers.

water polo *n.* A water sport with two teams, each of which tries to pass a ball into the other's goal.

water-power (wō'tər-pou'ər, wō'tər-) *n.* 1. *a.* The energy of running or falling water as used for driving machinery, esp. for generating electricity. *b.* A source of such power, as a waterfall. 2. A water right owned by a mill.

waterproof (wō'tər-prōōf, wō'tər-) *adj.* 1. Unaffected by or impenetrable to water. 2. Made of or treated with rubber, plastic, or a sealing agent to resist water penetration. —*n.* 1. A waterproof material or fabric. 2. Chiefly Brit. A waterproof garment, as a raincoat. —*vt.* -proofed, -proofing, -proofs. To make waterproof.

water purslane *n.* 1. An aquatic plant, *Didiplis diandra*, with small greenish flowers. 2. A marsh plant, *Ludwigia palustris*, with reddish stems and small reddish flowers.

water rat *n.* 1. A semiaquatic rodent, as one of the genus *Hydromys* of Australia and adjacent islands or *Neofiber alleni* of Florida and southern Georgia, resembling the muskrat. 2. Slang. A waterfront thief, ruffian, or habitué.

water-repellent (wō'tər-rē-pēl'ənt, wō'tər-) *adj.* Resistant to water but not entirely waterproof.

water-resistant (wō'tər-rē-zis'tənt, wō'tər-) *adj.* Water-repellent.

water right *n.* 1. The right to draw water from a particular source, as a lake, irrigation canal, or stream. 2. The right to navigate on particular waters.

water sapphire *n.* A dark-blue cordierite used as a gemstone.

waterscape (wō'tər-skāp, wō'tər-) *n.* A seascape.

water scorpion *n.* Any of various aquatic insects of the family Nepidae, bearing a respiratory tube projecting from the posterior part of the abdomen and inflicting a painful sting.

watershed (wō'tər-shēd, wō'tər-) *n.* [Prob. transl. of G. *Wasserscheide*.] 1. A ridge of high land dividing two areas that are drained by different river systems. 2. The region draining into a river, river system, or body of water. 3. A critical point serving as a dividing line <reached a watershed in the disarmament talks>

water shield *n.* 1. An aquatic plant, *Brasenia schreberi*, with floating oval leaves and purplish flowers. 2. A plant of the genus *Cabomba*, related to the water shield.

water-sick (wō'tər-sik, wō'tər-) *adj.* Not productive due to excessive irrigation. —Used of land.

waterside (wō'tər-sid, wō'tər-) *n.* Land bordering a body of water. —*adj.* 1. Of, relating to, or located at the waterside. 2. Living or working along the waterside.

water skater *n.* A water strider.

water-ski (wō'tər-skē, wō'tər-) *vi.* -skied, -ski-ing, -skis. To ski on water while being towed by a motorboat. —*n.* also *water ski pl.* skis or ski. A broad ski used in water-skiing. —*water-ski'er* *n.*

water snake *n.* 1. A nonvenomous snake of the genus *Natrix*, frequenting freshwater streams and ponds. 2. Any of various aquatic or semiaquatic snakes.

water-soak (wō'tər-sōk, wō'tər-) *vt.* -soaked, -soaking, -soaks. To soak or saturate with water.

water spaniel *n.* A breed of spaniel marked by a curly water-resistant coat, often used for retrieving waterfowl.

waterspout (wō'tər-spout, wō'tər-) *n.* 1. A tornado or whirlwind occurring over water and resulting in a whirling column of spray and mist. 2. A hole or pipe from which water is discharged.

water sprite *n.* A sprite or nymph living in or near water.

water strider *n.* Any of various insects of the family Gerridae, with long slender legs for moving on the surface of water.

water supply *n.* 1. The water available for an area or community. 2. The sources and delivery system of a water supply.

water system *n.* 1. A river and its tributaries. 2. A water supply.

water table *n.* 1. A projecting ledge, molding, or stringcourse along the side of a building, designed to throw off rainwater. 2. The depth or level below which the ground is saturated with water.

water thrush *n.* A brownish New World bird, *Seiurus noveboracensis* or *S. motacilla*, that walks alongside streams or ponds.

water tiger *n.* The predacious larva of a diving beetle.

water-tight (wō'tər-tīt, wō'tər-) *adj.* 1. Made or assembled so that water cannot enter or escape : WATERPROOF. 2. Having no flaws or loopholes <a watertight excuse>

water tower *n.* 1. A standpipe or elevated tank used as a reservoir or for maintaining equal pressure in a water system. 2. A towerlike fire-fighting apparatus for lifting hoses to the upper levels of a tall structure.

water turkey *n.* A blackish New World bird, *Anhinga anhinga* of swampy regions, with a long, slender, flexible neck.

water vapor *n.* Water diffused as a vapor in the atmosphere, esp. at a temperature below the boiling point.

water-way (wō'tər-wā, wō'tər-) *n.* A navigable body of water, as a canal, channel, or river.

water-weed (wō'tər-wēd, wō'tər-) *n.* An aquatic plant, esp. of the genus *Anacharis* or *Elodea*, bearing submerged stems with densely crowded, narrow leaves.

water wheel *n.* 1. A wheel propelled by falling or running water used to power machinery. 2. A wheel with buckets attached to its rim for raising water.

water wings *pl.n.* An inflatable device for supporting the body while learning to swim.

water witch *n.* One who professes the ability to find underground water esp. by a divining rod.

water-works (wō'tər-wūks, wō'tər-) *pl.n.* (*sing.* or *pl.* in number). 1. *a.* The water system, including reservoirs, tanks, buildings, pumps, and pipes, of a town or city. *b.* A single unit, as a pumping station, within such a system. 2. An exhibition of moving water, as artificial waterfalls or fountains. 3. Slang. Tears.

watery (wō't-ē, wō't-) *adj.* -ter, -test. 1. Filled with, composed of, or containing water : MOIST <watery soil> 2. Resembling or suggestive of water : LIQUID. 3. Diluted <watery tea> 4. Lacking force : INSIPID <watery essays> 5. Secreting or discharging water, esp. as a symptom of disease. —*wat'eri-ness* *n.*

Wat-son-Crick (wō't-sən-krik) *adj.* Of or pertaining to the Watson-Crick model of DNA.

Watson-Crick model *n.* [After James D. Watson (b. 1928) and Francis H.C. Crick (b. 1916), its devisers.] A structural model of DNA in which the molecule is depicted as a two-stranded helix with each strand composed of alternating links of phosphate and deoxyribose and with the strands connected in a ladderlike fashion by pairs of purine and pyrimidine bases, these in turn connected by hydrogen bonds.

watt (wōt) *n.* [After James Watt (1736-1819).] A unit of power in the International System equal to one joule per second.

wattage (wōt'ij) *n.* 1. An amount of power, esp. electric power, expressed in watts. 2. The electric power needed by a device.

watt-hour (wōt'our) *n.* A unit of energy, esp. electrical energy, equal to the energy of one watt acting for one hour and equivalent to 3,600 joules.

wattle (wōtl) *n.* [ME *wattel* < OE *watel*.] 1. *a.* Poles intertwined with twigs, reeds, or branches for use in construction; as of fences or walls. *b.* Materials thus used. 2. A fleshy, often brightly colored fold of skin hanging from the neck or throat, characteristic of certain birds and lizards. 3. An Australian tree or shrub of the genus *Acacia*. —*vt.* -tled, -tling, -tles. 1. To construct from wattle. 2. To weave into wattle. —*wat'tled* *adj.*

wattle-bird (wōtl-būrd) *n.* A bird of the genus *Anthochaera* of Australia and adjacent regions, with pendent wattles on each side of the head.

watt-meter (wōt'mē'tər) *n.* An instrument for measuring in watts the power flowing in a circuit.

Watusi (wā-tōō'sē) *n., pl.* *Watusi* or -sis. 1. A member of a pastoral people of Rwanda and Burundi in central equatorial Africa, distinguished by their tall stature. 2. A dance supposedly imitative of Watusi tribal dances. —*vi.* -sied, -singing, -sis. To dance the Watusi.

wave (wāv) *v.* *waved, waving, waves.* [ME *waven* < OE *wafian*.] —*vi.* 1. To move back and forth or up and down in the air : FLUTTER <flags waving in the breeze> 2. To make a signal with an up-and-down or back-and-forth movement of the hand or of an object in the hand. 3. To curve or curl, as the hair. —*vt.* 1. To move back and forth or up and down <wave a banner> 2. *a.* To move or swing as in giving a signal <wave one's arm> *b.* To signal or express by such a movement <waved farewell> 3. To arrange (the hair) into curves or curls. —*n.* 1. *a.* A ridge or swell moving along the surface of a large body of water and generated by the action of gravity or the wind. *b.* A small ridge or swell moving across the interface of two fluids and dependent on the surface tension. 2. *often waves.* The sea. 3. A moving curve or succession of curves in or on a surface : UNDULATION <waves of tall grass in the wind> 4. *a.* A curve or

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